IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.17375-M of 2005
Date of Decision:- 17.8.2007

Muskan and others ....Petitioner(s)

through
Mr.D.K.Bhatti, Advocate

vs.

State of Punjab & anr. ....Respondent(s)

through
Mr.Praveen Goyal, Sr. DAG, Punjab.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The prayer in this petition is for quashing of the F.I.R.No.171 dated 26.8.2004 under Sections 306/34 IPC registered at Police Station, Division No.6, Ludhiana as also the subsequent proceedings arising therefrom.

The above-stated F.I.R. has been registered on a statement made by Sanjeev Kumar who has, *inter alia,* alleged that his father, employed as a Sewerman in Ludhiana Municipal Corporation, had taken a loan of Rs.20,000/- on interest from petitioner No.3. While his father used

to pay an instalment of Rs.2200/- per month to petitioner No.3 along with interest and 7 instalments were paid by him on time, there was a default with regard to payment of two instalments. On 24.8.2004, it is alleged that the petitioner along with some other persons came to the house of the complainant's father and threatened that if he does not return the money "they will take legal action" and "file a suit" against them. It is further alleged that petitioner No.3 Ajay Kumar "also gave threats to his father."

As soon as petitioner No.3 and his associates left the place, the father of the complainant is alleged to have committed suicide by hanging himself. The deceased also left a 'suicide note' in which he is alleged to have accused Petitioner No.3 being responsible for his unnatural death.

Petitioner No.1 is wife of petitioner No.3 whereas petitioner No.2 is in his relations.

It appears that during the course of investigation, the Investigating Agency in addition to the 'suicide note' and the allegations contained in the F.I.R. also recorded statements of the complainant and other persons under Section 161 Cr.P.C. and having regard to the alleged threats given by petitioner No.3 to the deceased from time to time, had prepared a challan for presentation against all of them.

Aggrieved, the petitioners have approached this Court.

Relying upon a judgment of the Apex court in the case of **Sanju alias Sanjay Singh Sengar vs. State of M.P.,** AIR 2002 SC 1998 it is contended on behalf of the petitioners that even if the allegations as contained in the F.I.R. are taken on their face value, yet no case under Section 306 IPC is made out against the petitioners. He also relies upon a

judgment of the Madhya Pradesh High Court in the case of **Ram Naresh & another vs. State of M.P. & ors.** 2002 (3) RCR (Crl.)52.

On the other hand, learned State counsel, on the basis of material collected by the Investigating Agency, vehemently contends that since the persistent threats extended by petitioner No.3 led the father of the complainant to commit suicide, all the ingredients of Section 306 IPC stand satisfied.

After hearing learned counsel for the parties and going through the material on record, I am satisfied that the case of petitioner Nos.1 and 2 is distinguishable from that of petitioner No.3. A perusal of the F.I.R. would reveal that so far as petitioners No.1 and 2 are concerned, they are not specifically named though they might be amongst those who accompanied petitioner No.3 and went to the residence of the deceased and threatened him with "legal action" and to "file a suit against him." Even if it is assumed that petitioner Nos.1 and 2 had extended the aforesaid threat to the deceased for non-payment of the loan amount, it cannot be termed as an abetment to commit suicide. No other material appears to have been collected by the Investigating Agency against them.

The impugned proceedings so far as petitioners No.1 and 2 are concerned, thus, are nothing but an abuse of process of law and cannot sustain. Consequently, the impugned F.I.R. qua petitioner Nos.1 and 2 is hereby quashed.

The case of petitioner No.3, however, has no parity with petitioners No.1 and 2. Firstly, in the F.I.R. petitioner No.3 has been specifically accused of giving additional threat to the father of the

complainant. The suicide note allegedly left by the deceased also names petitioner No.3 to be solely responsible for taking the extreme step to end his life. Similarly, in the statement under Section 161 Cr.P.C. also, it is the petitioner No.3 who has been held responsible for instigating the deceased to such an extent that he committed suicide.

The principles laid down by the Apex Court in **Sanju alias Sanjay Singh Sengar's case** (supra) are distinguishable for more than one reasons. Firstly, the conclusion drawn by their Lordships in that case was in a criminal appeal and upon consideration of the evidence on record. That stage in the present case is yet to come. Secondly, in **Sanju alias Sanjay Singh Sengar's case** (supra) the deceased was found to be under great stress and depression and his own wife stated that he was a frustrated man who was in the habit of drinking. There is absolutely no material on record to suggest that the deceased in the present case was of abnormal mental condition or had no balanced state of mind immediately before he was allegedly instigated by petitioner No.3 with threat like dire consequences.

For the reasons afore-stated, it will be too premature to presume that the prosecution has failed to make out a prima facie case under Section 306 IPC against petitioner No.3 also.

Consequently, this petition qua petitioner No.3 is dismissed. However, petitioner No.3 shall be entitled to raise all his contentions before the learned trial Court at an appropriate stage and the same shall be considered in accordance with law.

August 17, 2007 **(SURYA KANT)**
poonam **JUDGE**